

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED
JUN 03 2011
BY: JULIA C. DUDLEY, CLERK
DEPUTY CLERK

EILEEN BRANIN,

Plaintiff,

v.

TMC ENTERPRISES, LLC D/B/A J.D.
BYRIDER, ET AL.,

Defendants.

CASE NO. 6:10-cv-00050

ORDER

JUDGE NORMAN K. MOON

This matter is before the Court upon Defendants' Motion to Dismiss, filed on February 17, 2011 (docket no. 10).

For the reasons set forth in the accompanying memorandum opinion, Defendants' motion to dismiss is hereby GRANTED in part and DENIED in part, as follows:

- The motion to dismiss the Virginia Consumer Protection Act ("VCPA") claim against Defendant TMC Enterprises, LLC d/b/a J.D. Byrider is DENIED;
- The motion to dismiss the VCPA claim against Defendant Lisa Thurman is GRANTED;
- The motion to dismiss the actual fraud claim is DENIED; and
- The motion to dismiss the constructive fraud claim is GRANTED.

The Clerk of the Court is hereby directed to send a certified copy of this order to all counsel of record. It is so ORDERED.

Entered this 3rd day of June, 2011.


NORMAN K. MOON
UNITED STATES DISTRICT JUDGE